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**IN THE UNITED STATES DISTRICT COURT**

**IN AND FOR THE DISTRICT OF NEVADA**

REBECCA CARTWRIGHT

Plaintiff, vs.

VERANO NEVADA, LLC d.b.a. SIERRA

WELL,

Defendant

Case No.:

**COMPLAINT AND JURY DEMAND**

COMES NOW plaintiff, through counsel, and hereby complains of defendant Verano Nevada, LLC d.b.a. Sierra Well, (hereinafter “defendant”), via this Complaint and Jury Demand as follows:

Jurisdiction, Venue & Jury Demand

1. Plaintiff is a woman and is a resident of northern Nevada. All, or almost all, acts, statements, communications, and omissions alleged herein occurred in northern Nevada, i.e., in or about Reno, Nevada. Plaintiff hereby requests a jury trial relative to all issues so triable. Plaintiff has obtained a Notice of Right to Sue from the Equal Employment Opportunity Commission, dated July 19, 2022, i.e., plaintiff has exhausted administrative remedies in accord with federal law. This Complaint and Jury Demand is timely filed in accordance with the Notice of Right to Sue which accompanies this Complaint and Jury Demand and is incorporated herein.

2. Defendant is a limited liability company, corporation, partnership, or some other legal entity which employed plaintiff from approximately June 9, 2017, until August 2, 2021, at which time plaintiff's employment was terminated by defendant. Defendant became liable for the causes of action herein when it became plaintiff's employer on or about July 26, 2021, when defendant signed a merger agreement with Sierra Well. In the alternative, defendant is liable for Sierra Well's unlawful conduct as the successor in interest to Sierra Well per the merger agreement. At all relevant times defendant, as successor in interest to Sierra Well, employed at least fifty employees within a 75-mile radius of plaintiff's worksite for at least twenty weeks per year. Defendant maintains a business operation in Reno, Nevada, where plaintiff was previously employed.

3. This Court has venue over this action because all, or almost all, acts communications, statements, and omissions alleged herein occurred in northern Nevada; defendant does substantial business in northern Nevada, e.g., it maintains a place of business in Reno, Nevada, at which all, or almost all, acts, statements, and omission which form the basis for this lawsuit occurred. Therefore, this Court has venue pursuant to 42 U.S.C. § 2000e-5(f)(3), and 29 U.S.C. § 2601 et. seq.

4. This Court has jurisdiction over this matter as plaintiff's claims arise under Title VII of the Civil Rights Act of 1964, i.e., 42 U.S.C. § 2000e, et. seq., and under the Family and Medical Leave Act of 1993, i.e., 29 U.S.C. § 2601, et. seq. Subject matter jurisdiction is invoked pursuant to 28 U.S.C. 1343. Jurisdiction exists because plaintiff is a woman who alleges she was subject to gender/sex-based harassment and/or pregnancy discrimination, and was terminated in violation of Title VII and/or the Family and Medical Leave Act. Plaintiff alleges she was harassed "because of sex", as defined by Title 42 and that she was subject to retaliation in violation of Title VII and the Family and Medical Leave Act, i.e., termination of her employment in response to requesting time off after plaintiff suffered a miscarriage.

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First Cause of Action

(Harassment/Hostile Work Environment Based on Sex)

5. Plaintiff hereby incorporates the allegations of paragraphs 1 through 4, inclusive, as well as all other paragraphs herein, as though the same were fully stated.

6. Plaintiff was employed by defendant from approximately June 9, 2017, until August 2, 2021. Plaintiff was employed in a managerial/supervisory position; however, plaintiff was not delegated authority to reprimand employees for misconduct. Throughout much, or in most instances, all of plaintiff's tenure, plaintiff was subjected to sexual and/or gender harassment "because of sex", as prohibited by 42 U.S.C. § 2000e, et. seq. Plaintiff's work environment was rendered hostile and offensive primarily by repeated and prolonged exposure to sexually foul and abusive music, i.e., "hiphop" or "rap" music. Defendant permitted a number of its employees and upper-level managers to play this music routinely and loudly in its work environment. Plaintiff's manager Todd Wold would regularly play this music and loudly sing along with the most graphic lyrics in the song. The subject work environment is a small, enclosed room i.e., totaling approximately 1,000 square feet. With the normal daily background noise, music played from a small speaker could be easily heard. Defendant allowed a large Sony GTK high-powered speaker to be used in the work environment. Managers and employees would connect to this speaker using "Bluetooth" to stream music from commercial sources. The music of which plaintiff and other female employees complained did not customarily, or ever, emanate from radio stations regulated by the Federal Communications Commission (FCC). The offensive music could be heard through much of the workplace.

7. The rap music was loudly played, i.e., the obscene lyrics could easily be heard. The music sent an implicit and clear message to defendant's employees, to wit, the written policies which defendant had disseminated were pro forma, i.e., they were for show only and would not be enforced. This message applied to just about every personnel policy, i.e., defendant's employees were implicitly conveyed the message the work environment was wide open for any

1 and every sort of misconduct, including sexual harassment. Songs containing obscene, sexually  
2 abusive, sexually graphic, and openly misogynistic and violent conduct – directed towards  
3 women were routinely, loudly, openly, and frequently played in plaintiff’s work environment.  
4 Pejorative remarks and name-calling, directed at women, were made by defendant’s employees,  
5 managers, and via the offensive music, e.g., women were referred to as “b\_\_\_s”, “hoes” (i.e.,  
6 “whores”), and “c\_\_\_ts”. In addition to allowing the foul, sexual, violent, and misogynistic songs  
7 to be routinely and loudly played throughout its facility, defendant allowed various male  
8 employees, and managers, to sing along and to accompany their singing with various sexual  
9 gestures, e.g., pantomiming sexual intercourse, grabbing their clothed genitals while looking at  
10 women employees, etc. In short, in addition to repeatedly and forcefully repudiating the written  
11 policy which defendant purportedly maintained in place, and which it promised it would enforce.  
12 The act, or omission, of allowing violently misogynistic and graphically sexually abusive  
13 material to be loudly and regularly broadcast throughout its facility actively successfully  
14 encouraged other acts and statements of a sexually abusive and/or misogynistic character. By  
15 allowing obscene rap music to be routinely and frequently broadcast, defendant guaranteed its  
16 work environment would be offensive “because of sex”, especially re the average hypothetical  
17 reasonable woman, and relative to most of its women employees. Plaintiff herself, and other  
18 female employees were offended by the music and by various sexually based statements and  
19 actions of her co-employees and managers, as they often performed in sync with or in  
20 conjunction with the music.

21 8. Defendant received notice on a daily, or almost daily basis, of the fact misogynistic  
22 and/or sexually offensive music was being openly played in its work environment. Defendant  
23 received such notice by virtue of the music itself. That is, on a regular basis, defendant had a  
24 number of managers present in the subject workplace, and those managers, including high-level  
25 managers, could hear the lyrics of the music, or would play the music themselves. That is,  
26 defendant’s managers knew, and had to have known, songs with obscene and otherwise very

1 sexually offensive and misogynistic lyrics were being loudly and frequently broadcast in  
2 defendant's work environment. Furthermore, defendant received complaints from plaintiff nearly  
3 every time the music was played to the effect the music was offensive "because of sex", i.e.,  
4 because of the obscene and sexually offensive and misogynistic character of the music. These  
5 complaints were ignored by defendant, and defendant failed to take meaningful and consistent  
6 action to halt the music, and otherwise fulfill its promise of a work environment free of sexual  
7 hostility. Part and parcel of the hostility plaintiff experiences was defendant's repeated and  
8 protracted refusal to investigate and remedy the playing of rap music in its work environment.  
9 For instance, notwithstanding its managers having fielded many complaints by plaintiff and other  
10 female employees as to the misogynistic and sexually offensive character of the music, defendant  
11 trivialized those complaints, and the foreseeable effect of playing such music. Defendant failed  
12 to timely investigate, even though plaintiff and other female employees complained of the  
13 prevalence of the foul rap music and various other forms of sexual harassment.

14 9. Defendant further allowed a sexually-hostile work environment to exist alongside the  
15 music. Employees were required to change into their work coveralls on site to ensure a sterile  
16 work environment. The room in which employees were required to change in was not private,  
17 i.e., it was a single room, which was monitored by video surveillance, and served the dual  
18 purpose of being the reception area of the building. Non-employees would regularly come into  
19 the building while employees were changing and be able to see the employees in various states  
20 of undress. Defendant required employees to be changed and at their workstations within a short  
21 amount of time. This time constraint meant that men and women were required to change at the  
22 same time. Furthermore, when plaintiff along with other female employees complained about the  
23 changing room situation and requested their own changing room, defendant told the women to  
24 use a small, single person bathroom. This was not a reasonable accommodation because the  
25 women could not change at the same time in the bathroom, which would cause them to be late  
26 arriving to their workstations.

1 10. While changing, sexual comments and conduct were a constant occurrence.  
2 One example being where one of plaintiff's coworkers, Michael Thorton, would take his clothes  
3 off down to his underwear and stand so close to plaintiff that his stomach would be pressed  
4 against her back. When Plaintiff complained to the cultivation manager at the time, Jake  
5 O'Rourke, he refused to take any remedial action because he did not witness the conduct  
6 firsthand.

7 11. As a Direct and proximate result of being subject to a sexually hostile work environment,  
8 plaintiff suffered emotional distress, loss of enjoyment of life, fear, anger, humiliation, loss of  
9 sleep, and anxiety. It has been necessary for plaintiff to incur costs and retain counsel to attempt  
10 to vindicate her right to a workplace free from sexual hostility, gender-based hostility, and  
11 retaliatory hostility.

12 Second Cause of Action

13 (Sex/Pregnancy Discrimination)

14 12. Plaintiff hereby incorporates the allegations of paragraphs 1 through 11, inclusive, as well  
15 as all other paragraphs herein, as though the same were fully stated.

16 13. In March of 2021, plaintiff discovered she was pregnant with her first child. On June 25<sup>th</sup>,  
17 2021, plaintiff's pregnancy became high risk. On the evening of July 7<sup>th</sup>, after informing manger  
18 Todd Wold that her baby did not have a heartbeat and the doctors were going to induce labor,  
19 plaintiff was placed on medication to induce labor. On July 8<sup>th</sup>, plaintiff's daughter was delivered  
20 stillborn. On July 8<sup>th</sup>, plaintiff was granted time off of work due to her suffering a miscarriage,  
21 and was told by manager Todd Wold to complete some documents so she could take extra time  
22 off. On July 9<sup>th</sup>, plaintiff emailed defendant's HR department asking for information or for  
23 paperwork to take leave from work to recover emotionally from the miscarriage of her daughter  
24 as directed by Mr. Wold. Plaintiff received no response from HR and was provided with no  
25 documents for her leave.

26 14. Between July 9<sup>th</sup>, and July 21<sup>st</sup>, plaintiff's significant other, Matthew Robinson, who was

1 also employed by defendant, maintained regular contact with defendant regarding plaintiff's  
2 recovery from the miscarriage and continued time off. On July 21<sup>st</sup>, plaintiff received an email  
3 from defendant asking when plaintiff was planning on returning to work. On July 30<sup>th</sup>, Mr.  
4 Robinson informed defendant that he and plaintiff had just picked up their daughter's ashes and  
5 were not ready to return to work. The following day on July 31<sup>st</sup>, plaintiff received an email from  
6 defendant stating that because plaintiff and Mr. Robinson had failed to maintain contact with  
7 defendant, it would consider their resignation effective August 2<sup>nd</sup>, 2021, if they did not respond  
8 to defendant with their intentions. On August 2<sup>nd</sup>, at approximately 3:00 in the afternoon, Mr.  
9 Robinson emailed defendant's CEO at the time, Michael Livak, explaining that plaintiff and he  
10 were not resigning, that plaintiff was still in an incredibly fragile emotional state and would  
11 require further time off. Approximately 30 minutes later, Mr. Livak emailed Mr. Robinson that  
12 he and plaintiff were being terminated for job abandonment.

13 15. During plaintiff's tenure with defendant, she had received a single verbal write-up.  
14 Plaintiff was later demoted from a managerial to a supervisory position after making a regulatory  
15 compliance mistake. Plaintiff was performing satisfactorily enough that she retained her  
16 managers salary.

17 16. In 2017, Andrew Koetting, who was an upper-level manager at the time was given 3 to 4  
18 months off for the birth of his child.

19 17. Accordingly, defendant engaged in conduct prohibited by 42 U.S.C. § 2000e, et. seq.  
20 when it chose to terminate a woman who had just suffered a miscarriage, who's work  
21 performance was satisfactory at the time of termination, and a similarly situated male employee  
22 was allowed to take 3 to 4 months off of work after the birth of his child.

23 18. As a Direct and proximate result of being subject to discrimination based on pregnancy,  
24 plaintiff suffered emotional distress, loss of enjoyment of life, fear, anger, humiliation, loss of  
25 sleep, and anxiety. It has been necessary for plaintiff to incur costs and retain counsel to attempt  
26 to vindicate her right to a workplace free from sex/pregnancy discrimination, and retaliatory

1 hostility.

2 Third Cause of Action

3 (Family and Medical Leave Act (“FMLA”) Interference)

4 19. Plaintiff hereby incorporates the allegations of paragraphs 1 through 18, inclusive, as well  
5 as all other paragraphs herein, as though the same were fully stated.

6 20. Defendant employs more than 50 employees within a 75-mile radius of plaintiff’s  
7 worksite.

8 21. Plaintiff worked for defendant for more than 1 year.

9 22. On July 8<sup>th</sup>, 2021, plaintiff notified defendant that she was about to undergo induced  
10 labor to deliver her daughter who no longer had a heartbeat and would require an extended leave  
11 of absence.

12 23. On July 9<sup>th</sup>, 2021, plaintiff requested defendant provide to her any documentation as may  
13 be necessary to take an extended leave of absence due to severe emotional trauma caused by the  
14 miscarriage of her daughter.

15 24. Defendant failed to provide plaintiff with any paperwork, and ultimately denied her  
16 benefits for which she was entitled under the Family and Medical Leave Act when defendant  
17 terminated plaintiff’s employment after only 3 weeks and 3 days from the time plaintiff  
18 requested defendant supply her with documents for an extended leave of absence.

19 25. Accordingly, defendant engaged in conduct prohibited by 29 U.S.C. § 2601 et. seq. when  
20 it failed to provide to plaintiff FMLA benefits for which she was entitled, and instead terminated  
21 her employment.

22 26. As a Direct and proximate result of defendant’s interference with plaintiff’s FMLA  
23 benefits, plaintiff suffered emotional distress, loss of enjoyment of life, fear, anger, humiliation,  
24 loss of sleep, anxiety, and economic damages. It has been necessary for plaintiff to incur costs  
25 and retain counsel to attempt to vindicate her right to benefits for which she was entitled per 29  
26 U.S.C. § 2601 et. seq.



WHEREFORE, plaintiff requests the following relief:

1. For an award of compensatory damages;
2. For an award of punitive damages sufficient to punish and deter defendant from engaging in similar conduct;
3. For an award of special or actual economic damages according to proof;
4. For an award of costs and reasonable attorney's fees;
5. For injunctive relief to compel defendant to adopt and actually enforce a reasonably policy against sexual harassment and/or discrimination;
6. For injunctive relief to compel defendant to adopt and actually enforce a policy that is in compliance with 29 U.S.C. § 2601 et. seq.; and
7. For any further relief the Court or jury may deem just.

DATED this 12<sup>th</sup> day of October, 2022.

/s/ Sean McDowell

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**INDEX OF EXHIBITS**

July 19, 2022 Issued Notice of Right to Sue.....Exhibit 1